

Meeting Notes
Bay-Lake Regional RLF Discussion
May 14, 2013

Attendees: Rich Heath, Ken Pabich, Pam Kolasinski, Ann Hartnell, Barb LaMue, Dan Pawlitzke, Bill Chaudoir, Chuck Lamine, Greg Buckley, Fred Monique, and Mel Blanke, and Connie Loden (via phone). Also attending was Jim Ledvina, an attorney with the Law Firm of Liebmann, Conway, Olejniczak, and Jerry, S.C. in Green Bay.

These key topics were discussed:

1. Rich Heath (BLRPC) asked if there needs to be any additions or deletions to the agenda. Dan Pawlitzke (City of Two Rivers) asked that Defederalization and Clawbacks be added to the agenda. These items were added as agenda item number 5.
2. There were not revisions or changes to the meeting notes from April 24, 2013.
3. In regards to open meetings and open records, Pam Kolasinski (WEDC) distributed information on these two issues directly from the WEDC handbook. Pam stated that it is important to keep the financials and proprietary information confidential, but this information is needed for the loan files. Barb LaMue (WEDC) added that WEDC staff make the loan decisions. There was discussion on whether or not the Wisconsin Economic Development Association (WEDA) would be promoting the idea through their Legislative Committee to have legislators address these issues to make them more black and white. Barb also made available some additional policy information on open records requests that WEDC follows under Wisconsin State Statute 19.31:

Logistics of an Open Records Request:

Request is made to Madison – must be reasonably specific as to the subject matter of the request and the length of time involved.

Legal counsel reviews the request and communicates it to appropriate individuals for comment.

Legal counsel determines if there is a reason the records must be withheld from disclosure and if any redacting is necessary. A written explanation must accompany any decision to partially or fully deny a request.

Exceptions to Disclosure:

Statute contains a litany of exceptions that apply broadly and to specific state entities. WEDC must explain to the requestor the specific legal basis for redacting information from a record or determining that a record cannot or should not be disclosed in its entirety.

Trade Secrets –information constituting a trade secret under WI state 134.90(1)(c). – ‘information, including a formula, pattern, compilation, program, device, method, technique or process’ where the information ‘derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use’ and ‘is the subject of efforts to maintain its secrecy that are reasonable under the circumstances.’

Wisconsin courts narrowly interpret the scope of documents falling under the statute's protective umbrella. Customer lists may be subject to trade secret protection in industries where nearly identical products are marketed to a small group of customers. Data compilations – even of publically available data – may also be protected, if the organization, process, or operation of the data is sufficiently unique and offers a competitive advantage to the owner of the data. Software may be a trade secret unless it can be readily reverse engineered. There are many other examples, but determining whether information constitutes a trade secret requires a case by case review.

Balancing Test – WEDC is not obligated to disclosure records where specific public interests favoring non-disclosure outweigh the strong presumption and public policy interests favoring disclosure. This is the balancing test. Under it, WEDC may determine that a record cannot be disclosed because the balance of interests tips in favor of non-disclosure. In Two Rivers, a separate “sub-Committee” meets the business to review the business plan, business and personal financial statements and reports those findings to the main committee. Mel questioned if someone brought information to the meeting, then collected it, is that considered “public information”?

4. Bill Chaudoir (Door County EDC) said he is satisfied that regionalization is necessary for the defederalization of funds. Dan wanted to know if WEDC had a letter from HUD stating that regionalization meets the defederalization requirement. Barb said she would look for a letter from HUD encouraging the regionalization of the loan programs for defederalization purposes. Ken Pabich (De Pere) said HUD is supportive of the other two regional RLF programs. Fred Monique (Advance) stated that HUD has reviewed and audited those two programs and found them to be okay. Bill thought a couple of pages from the WEDC audit that signify regionalization is the method for defederalization through a 105(a)15 would serve the same purpose as a letter from HUD. Chuck Lamine (Brown County) said he is going to his committee soon and would like a letter or information from the audit stating regionalization complies with the defederalization requirement. Barb will send the “Audit Report” as well as a letter on the de-federalization “process”. Rich had percentages on the board as follows: Manitowoc County- 32%; Sheboygan County – 21%; Brown County – 12%; Door County – 12%; Oconto County – 9%; Marinette County – 8%; Kewaunee County -3.5% & Florence County 1.5% (Does not equal 100%, due to rounding).
5. Pam questioned what is meant by clawbacks. Greg Buckley (Two Rivers) asked if WEDC changed, could the money each community contributed to the regional fund be returned to each respective community? Greg asked if WEDC had plans to pull funds from communities not participating in the regional fund? Barb responded by saying no. Pam said WEDC DOES NOT have plans to request money back from those Municipalities, she further went onto to say that it would depend on whether or not the local board would dissolve the local RLF or not. Barb stated that the state has always had control of the funds. Pam explained that not meeting LMI requirements could result in the community paying back the money to the state. Bill stressed that HUD funding was always based on LMI and blight.

6. Rich asked that anyone wanting reimbursement of expenses to please sign and send in the MOU as soon as possible. A final copy of the MOU was distributed at the last meeting. In addition, Rich wanted to have reimbursement requests by the end of June in order to have time to check figures and paperwork in order to make one request for reimbursement to WEDC by early July. The time frame for those expenses was July 1, 2012 through June 30, 2013.
7. Several individuals attending the meeting had questions for Greg and Dan regarding Manitowoc County's decision to not participate in the regional RLF program. Greg said he see some of the outstanding issues outweighing participating even though LMI is a big incentive. He added that Two Rivers has been a good steward of the loan fund. Mel Blanke (City of Plymouth) asked about a Manitowoc County sub-region. Greg would like the county to be its own sub-region but is not sure of the size of region HUD is seeking. Pam asked Greg what he thought the hurdles may be? Greg responded that something is being taking away and the lose of control. Dan added that there is also the fear of the unknown. Mel added, if it is not broke do not fix it.

Fred said lets move on and see if Manitowoc County change's its mind later on. Ken said it would have been nice if Manitowoc County made their decision based on all of the information. Bill added that the regionalization of the loans will be a more difficult sell locally now that Manitowoc County is not participating. Manitowoc County and the three communities comprise about 32% of the total loan pool of \$33.7 million. Pam mentioned that WEDC originally designated "Regional" as the Regional Planning Commission boundaries and WEDC did not want to ask HUD to change the boundaries originally created by the State. Pam further explained that counties must enter into the Regional RLF program first in order for Cities and Villages to participate in the Regional RLF. Connie Loden (EDC of Manitowoc County) provided an update on the county's micro loan fund, which will be around \$300,000.

There was discussion on where each county stands on regionalization. Kewaunee and Sheboygan counties were waiting on completion of the loan manual before pressing the issue locally. Ann Hartnell (MCABI) stated Marinette County is leaning toward joining and Pam is going there to answer questions on the loan and process. Chuck explained his committee will be discussing it at their next meeting Scheduled for May 20, 2013, with plans to go to the county board shortly thereafter. Bill said Door is interested in the regionalization of the loans but nothing official. Without representation from either Oconto or Florence counties, it was unsure where they stood in the process. Oconto County has proposed joining a region with some of the neighboring counties located to its northwest; however, Pam indicated that Oconto needs a compelling reason to exit the Bay-Lake Region to join another County. Fred added that if Oconto County is allowed to leave, Brown County would also be out; however, there may be the option to create new sub-regions. Bill stated that WEDC should not change the rules now and leave the regions based on RPC boundaries. Pam informed the committee that each region was on a different schedule regarding their own regionalization efforts. Dan asked what the total loan portfolio was for the state. Pam and Barb did not know without doing some research. Matt Payette asked about the pay-back to the state if over the cap. Pam responded that 30% of any new loans from

the WEDC would be returned to the State, and any money in the Regional RLF would not have to be returned to the state if the 21 local loan programs joined the regional RLF initiative. Dan and Mel mentioned that each of their respective loan funds DO NOT have any requirement to return any funds to the State. Two Rivers last loan was in March 1986.

8. Ken provided copies of Version 6 of the Loan Manual and went through the revisions that were made since the last time the committee had met. Some of the changes included:
 - Changed organizational chart on Page 5.
 - Clarified Local Loan Committees on Page 6.
 - Added first paragraph on Page 7.
 - Moved eligibility considerations up to Page 10 from back of document.
 - Rewrote the Application and Review and Approval sections for each of the loans.

After some additional review, these are some of the final edits:

- Section C. BLBF Board of Directors will need to be tweaked on page 5 based on the number of counties participating in the regional RLF.
- Section D- the sub-regional committees should have the same member make-up as the regional board.
- Eligible Applicants section on Page 10 should specifically define the two entitlement communities-Green Bay and Sheboygan as being ineligible to participate in this Regional Loan Program as they did not originally obtain their economic development grants to the municipality through "Small Cities Loan Program".
- Mel wanted Item #5 under section D Ineligible Activities on Page 11 to be deleted. The committee agreed with his reasoning.

Ken stated he will make the changes immediately and get Version 7 of the loan manual out to everyone for their use locally.

9. Pam noted some important steps on the timeline she drafted for the group to use. Refer to the attached "Checklist for Forming Regional Loan Fund" handout from Pam. Jim Ledvina (Attorney) went through the timeline and noted how long and in-depth some of the more critical steps may be to give everyone of feel for how long formation of a nonprofit may take, including selection of board members and preparation of the bylaws. He added that much of the information is stock language. Jim wanted to think about the name of the nonprofit organization as well as its fiscal year as two beginning steps in the process. Pam added that having a fiscal year not on the calendar year may be cost savings since an audit will not be scheduled during the height of the audit season. Rich asked about having software similar to what is being used by WEDC to help with the maintenance of information and coordination of reporting.

Next meeting has been scheduled for Tuesday, July 23, 2013 at 9:00 a.m. at the Bay-Lake Regional Planning Commission; first floor Community Room (429 S. Jackson Street)

Notes Taken by:
Richard Heath